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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/019,614
Filing Date: February 06, 1998
Appellant(s): KOSKI ET AL.

Geza C. Ziegler Jr.
For Appellant

EXAMINER'S ANSWER

This is in response to the Order Returning Undocketed Appeal to Examiner dated 12/30/2008; appeal brief filed 01/09/2008 appealing from the Office action mailed 11/14/2006.

The previous Examiner's Answer dated 04/15/2008 is vacated. A corrected, new Examiner's Answer is provided hereinafter.

Enclosed is a corrected Advisory Action of 03/08/2007 that clarified the claims status of the Amendment After Final dated 02/13/2007.

Enclosed is the IDS form 1449 filed 07/30/2010 that has been considered by the Examiner.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

The Amendment After Final dated 02/13/2007 has been considered and entered. See corrected Advisory Action of 03/08/2007 enclosed herein.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,926,756	PIOSENKA ET AL	07-1999
5,881,103	WONG ET AL	03-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. **Claims 1-7, 9-13 and 31-32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Piosenka et al. (US Patent No. 5,926,756) in view of Wong et al. (US Patent No. 5,881,103).

Regarding **claims 1, 3, 5, 11 and 13**, Piosenka et al., (hereinafter, Piosenka) discloses method for programming a cellular phone. Piosenka's disclosure comprises a PED, which may be any various programmable electronic device, such as a cellular telephone, pagers, etc., (col. 2, lines 46-49), of which the PED includes an interface (20/26) that comprises a microcontroller (32) that enables data to be received and transmitted between and PC (which may also be a type of personal digital assistant) and a cellular phone (col. 3, lines 10-17, 50-62, col. 4, lines 32-42 and col. 5, Line 65-col. 6, line 2, and figures 1-4); further the data includes volume controls and ring controls indicates audio parameters (col. 6, lines 43-47), which read connecting to at least one auxiliary device, which as well indicates loading audio parameters into processor of the PC during operation and these audio parameters are related to audio properties of the PC itself since they are being generated by the PC; and providing two way communication of the data (audio parameters) between the cellular phone (mobile communication device) and the PC (auxiliary device and/or mobile communication device - the PC may also be a PDA) when the PC or auxiliary device is connected to the mobile communication device or cellular phone via a serial input/output port associated to the PC and a wire bus associated to the cellular phone. However, Piosenka fails to disclose a digital signal processor and the communication of digital data.

Regarding the digital signal processor and the communication of digital data, Wong et al. (hereinafter, Wong) discloses a digital signal processor (206) and the transfer of digital data between two electronic components (figure 2).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Piosenka by incorporating a DSP for digital signals processing for the purpose of providing efficient and quality transmission, and adequate processing of the data between electronic devices, such as a PC and cellular phone, via an universally known data interface.

Regarding **claim 2**, Piosenka and Wong disclose everything claimed as applied above (see claim 1). Piosenka and Wong disclose a serial input/output port associated to the PC and a wire bus associated to the cellular phone (col. 4, lines 35-38), which reads on the audio parameters loaded from the auxiliary device via the auxiliary device connection.

Regarding **claim 10 and 12**, respectively, Piosenka and Wong disclose everything claimed as applied above (see claim 1 and 5, respectively). Piosenka discloses further the data includes volume controls and ring controls indicate audio parameters (col. 6, lines 43-47).

Regarding **claim 4 and 6**, respectively, Piosenka and Wong disclose everything claimed as applied above (see claim 1 and 5, respectively). Piosenka discloses obviously indicates claimed limitation as evident by the interface logic for hardware for insuring proper voltage and current levels of the bus connection (col. 4, lines 19-31 and 46-48).

Regarding **claim 7**, Piosenka and Wong disclose everything claimed as applied above (see claim 5). Piosenka discloses the PC that is able to transmit and receiver data, which constitutes a transmitter/receiver unit of a mobile station, and Wong further discloses a transmitter/receiver unit of a mobile station figure 2-reference 110.

Regarding **claim 9**, Piosenka and Wong disclose everything claimed as applied above (see claim 8). Piosenka discloses the cellular telephone, which obviously includes a loudspeaker and a microphone as evident of the structure of a cellular phone.

Regarding **claim 31**, Piosenka discloses method for programming a cellular phone. Piosenka's disclosure comprises a PED, which may be any various programmable electronic device, such as a cellular telephone, pagers, etc., (col. 2, lines 46-49), of which the PED includes an interface (20/26) that comprises a microcontroller (32) that enables data to be received and transmitted between and PC (which may also be a type of personal digital assistant) and a cellular phone (col. 3, lines 10-17, 50-62, col. 4, lines 32-42 and col. 5, Line 65- col. 6, line 2, and figures 1-4); further the data includes volume controls and ring controls indicates audio parameters (col. 6, lines 43-47), which read connecting to at least one auxiliary device, which as well indicates loading audio parameters into processor of the PC during operation and these audio parameters are related to audio properties of the PC itself since they are being generated by the PC; and providing two way communication of the data (audio parameters) between the cellular phone (mobile communication device) and the PC (auxiliary device and/or mobile communication device - the PC may also be a PDA)

when the PC or auxiliary device is connected to the mobile communication device or cellular phone via a serial input/output port associated to the PC and a wire bus associated to the cellular phone. However, Piosenka fails to disclose a digital signal processor and the communication of digital data.

Regarding the digital signal processor and the communication of digital data, Wong discloses a digital signal processor and the transfer of digital data between two electronic components (figure 2).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Piosenka by incorporating a DSP for the purpose of providing efficient and quality transmission, and adequate processing of the data between electronic devices, such as a PC and cellular phone, via an universally known data interface.

Regarding **claim 32**, Piosenka discloses method for programming a cellular phone. Piosenka's disclosure comprises a PED, which may be any various programmable electronic device, such as a cellular telephone, pagers, etc., (col. 2, lines 46-49), of which the PED includes an interface (20/26) that comprises a microcontroller (32) that enables data to be received and transmitted between and PC (which may also be a type of personal digital assistant) and a cellular phone (col. 3, lines 10-17, 50-62, col. 4, lines 32-42 and col. 5, Line 65- col. 6, line 2, and figures 1-4); further the data includes volume controls and ring controls indicates audio parameters (col. 6, lines 43-47), which read connecting to at least one auxiliary device, which as well indicates

loading audio parameters into processor of the PC during operation and these audio parameters are related to audio properties of the PC itself since they are being generated by the PC; and providing two way communication of the data (audio parameters) between the cellular phone (mobile communication device) and the PC (auxiliary device and/or mobile communication device - the PC may also be a PDA) when the PC or auxiliary device is connected to the mobile communication device or cellular phone via a serial input/output port associated to the PC and a wire bus associated to the cellular phone. Piosenka further discloses the PC including software for controlling the programming of the PED (col. 3, lines 6-7and col. 10, lines 30-43), and the microcontroller obviously performance is dependent upon software instructions as evident by the memories. However, Piosenka fails to disclose a digital signal processor and the communication of digital data.

Regarding the digital signal processor and the communication of digital data, Wong discloses a digital signal processor and the transfer of digital data between two electronic components (figure 2).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Piosenka by incorporating a DSP for the purpose of providing efficient and quality transmission, and adequate processing of the data between electronic devices, such as a PC and cellular phone, via an universally known data interface.

(10) Response to Argument

Appellant's arguments filed 01/09/2008 have been fully considered but they are not persuasive.

Appellant essentially argued on page 9-11 of the Brief that the combined teaching of Piosenka and Wong fails to disclose or suggest the claimed features of the “audio parameters" and "the audio parameters relating to audio properties of the auxiliary device" as contained in independent claims 1, 5, 31 and 32. The Examiner disagreed. As stated in the Final rejection of 11/14/2006, Piosenka in col. 6, lines 43-47 indicated that the auxiliary device (i.e., PC) including software for generating features such as volume controls, ring controls, timer controls, service options, etc for the cellular telephone (i.e., the mobile communication device as claimed). The volume controls, ring controls are audio control data that is read on as the broadly claimed “audio parameters”.

In regard to the appellant’s argument of the claimed language of the “audio parameters relating to the audio properties of the auxiliary device”, it’s noted that there are no specific explanation in the various independent claims to indicate what are being specifically referred to as the “audio properties of the auxiliary device”. Since the audio control data or audio parameters such as volume controls, ring controls that are being generated by the auxiliary device or PC, these audio parameters are clearly can be considered as “audio properties of the auxiliary device”, and these audio parameters are reasonably to be interpreted or read on as the broadly claimed audio parameters that are 'related' to the audio properties of the auxiliary device. It’s further noted that the claims are interpreted in light of the specification, limitations from the specification are

not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant's arguments in regard to the Wong's reference (page 11, last paragraph of the Brief) fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

As these are the totality of arguments presented, and they have been found unpersuasive, the existing final rejection of 11/14/2006 is deemed appropriate.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Xu Mei/

Primary Examiner, Art Unit 2614

Conferees:

/Vivian Chin/

Supervisory Patent Examiner, Art Unit 2614

/Sinh N Tran/

Supervisory Patent Examiner, Art Unit 2622

Enclosed: corrected Advisory Action of 03/08/2007;
considered IDS form 1449 filed 07/30/2010.